

### **REMARKS**

Applicant appreciates the consideration of the present application afforded by the Examiner. Claims 1-21 remain pending. Claims 1, 5, 12, 16, and 21 are independent. Favorable reconsideration and allowance of the present application are respectfully requested in view of the following remarks.

#### **Claim Rejections - 35 U.S.C. §103(a)**

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,741,864 to Wilcock et al. ("Wilcock") in view of U.S. Patent No. 7,065,370 to Ogaki et al. ("Ogaki"). Applicant submits that the Examiner has failed to establish a *prima facie* case of obviousness and traverse the rejection.

For a 35 U.S.C. § 103 rejection to be proper, a *prima facie* case of obviousness must be established. *See M.P.E.P. 2142*. One requirement to establish *prima facie* case of obviousness is that the prior art references, when combined, must teach or suggest all claim limitations. *See M.P.E.P. 2142; M.P.E.P. 706.02(j)*. Thus, if the cited references fail to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. Applicant submits that Wilcock and Ogaki fail to teach every element of the claims, alone or in combination.

First, independent **claim 1** is directed to an image processing server which comprises, *inter alia*, "a communication unit that receives image data from a mobile communication device, the image data having been sensed by the mobile communication device".

The Examiner alleges that Wilcock teaches such a communication unit as claimed. However he expressly states that "Wilcock et al. teaches image [*sic*] being uploaded to mobile from camera then receiving information about location related to image and coordinates". *See Office Action, page 3*. In other words, the Examiner himself states that Wilcock teaches that the image data is not sensed by the mobile communication device, and indeed a detailed review of Wilcock reveals no mention of image data being sensed by a mobile communication device. In fact, Wilcock is expressly directed to "using a mobile device that is... separate from the camera, to

provide... a location data item indicative of the location at which the image recording was taken” [Wilcock, col. 2, lines 30-32, *emphasis added*]. See also FIG. 11 and 12, showing the mobile device and camera as separate devices. Wilcock does not teach at least the feature of claim 1 of the image data having been sensed by the mobile communication device. Ogaki is not, and indeed cannot be, relied upon to teach this deficiency of Wilcock. See, for example, Ogaki, col. 6, lines 32-43 and FIG. 4 which show the positioning information transmitting device 10 as separate from digital camera 80.

Second, independent claim 1 is further directed to an image processing server comprising “a specifier that specifies a position of the mobile communication device based on GPS information relating to a base station representing a communication region where the image data was sensed by the mobile communication device”. Even if Wilcock in view of Ogaki were to teach a “communication unit that receives image data from a mobile communication device, the image data having been sensed by the mobile communication device”, which Applicant does concede, Wilcock in view of Ogaki still fail to teach at least this limitation.

The Examiner concedes that Wilcock does not disclose receiving information about location related to a base station (*see Office Action, page 3*) and relies on Ogaki to teach this deficiency, stating that Ogaki allegedly “teaches receiving information about the distance or position of mobile in current area [*sic*]” and referring to col. 1, lines 15-22 and col. 4, lines 6-14. However, review of these citations reveals that Ogaki appears to only teach a positioning information transmitting device 10 which has “a function of receiving GPS signals from a GPS satellite 1 and a function of receiving base station signals from a portable telephone base station 2” [col. 4, lines 8-10]. After review of the entire Ogaki reference, Applicant asserts that Ogaki does not teach specifying a position of the mobile communication device based on GPS information relating to a base station. In fact, Ogaki expressly lists known techniques for measuring location as being based on “the global positioning system or based on base station signals” [col. 1, lines 17-18, *emphasis added*]. Clearly, Ogaki cannot teach this limitation of independent claim 1.

In this instance, the combination of Wilcock and Ogaki fails to teach or suggest each and every limitation of claim 1. Independent claims 5, 12, and 16 recite features similar to those presented above with respect to claim 1. Claims 2-4, 6-11, 13-15, and

17-20 depend from claims 1, 5, 12, and 16, directly or indirectly. Therefore, for at least the reasons stated with respect to claims 1, 5, 12, and 16, claims 2-4, 6-11, 13-15, and 17-20 are also distinguishable from Wilcock in view of Ogaki.

Regarding dependent **claims 2 and 13**, the Examiner contends that Wilcock and Ogaki teach a database that stores GPS information for a plurality of base stations, referring to Figure 1 of each reference. Applicant respectfully submits that nowhere do Wilcock and Ogaki teach such a database, in Figure 1 or otherwise. Accordingly, claims 2 and 13 are distinguishable from Wilcock and Ogaki.

Regarding dependent **claims 4, 7, and 15**, the Examiner contends that Wilcock and Ogaki disclose that the base station related information includes one of a base station number or a place name, citing only that Wilcock allegedly teaches receiving GPS data regarding the mobile communication device. Applicant respectfully submits that nowhere do Wilcock and Ogaki teach the aforementioned feature. Accordingly, claims 4, 7, and 15 are distinguishable from Wilcock and Ogaki.

Regarding dependent **claims 8-11 and 19-20**, the Examiner contends that Wilcock and Ogaki disclose adding position information in an exchangeable information file (Exif) tag to the image data. Review of the disclosures of Wilcock and Ogaki reveal that neither reference so much as mentions the Exif tag format. Therefore, Wilcock and Ogaki cannot be said to teach this feature of the claims. Accordingly, claims 8-11 and 19-20 are distinguishable from Wilcock and Ogaki.

Regarding independent **claim 21**, Applicant respectfully submits that the Examiner has failed to provide a *prima facie* case of obviousness and further submit that Wilcock and Ogaki fail to teach every element of the claim, alone or in combination.

Referring to the Office Action, the Examiner provides no basis for the § 103 rejection of claim 21. Applicant submits that neither Wilcock nor Ogaki teach, alone or in combination, at least the method steps of “receiving a message from a mobile communication device, the message including image data sensed by the mobile communication device; specifying a base station used to transmit the received message; acquiring location information associated with the specified base station; and adding the acquired location information to the received image data as attribute information.” Accordingly, claim 21 is distinguishable from Wilcock in view of Ogaki.

Applicant submits that claims 1-21 are patentable over Wilcock in view of Ogaki  
and respectfully request that the rejection of claims 1-21 under §103(a) be withdrawn.

**CONCLUSION**

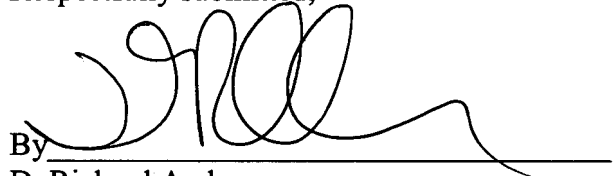
All objections and rejections raised in the Office Action having been addressed, it is respectfully submitted that the present application is in condition for allowance. Notice of same is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John R. Sanders (Reg. No. 60,166) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: June 26, 2007

Respectfully submitted,

  
By \_\_\_\_\_

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